

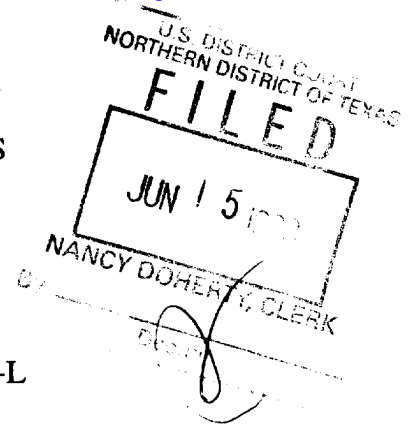
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PATIENCE OYOYO
DR. KEVIN OYOYO

V.

BAYLOR HEALTH NETWORK, INC.

3-99-CV-569-L



REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Pursuant to the District Court's order of reference filed on June 1, 1999, came on to be considered Defendant's Motion to Dismiss filed on May 18, 1999, and Plaintiffs' response thereto filed on June 14, 1999, and the magistrate judge finds and recommends as follows:

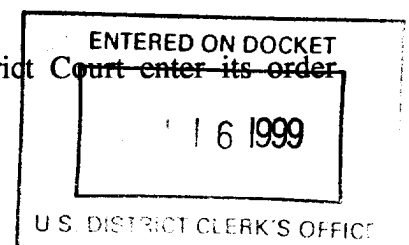
Plaintiff Patience Oyoyo filed her complaint in this action on March 16, 1999. Defendant filed an answer to the complaint on May 18, 1999, contemporaneously with its motion to dismiss. On this date the magistrate judge has granted Patience Oyoyo leave to file an amended complaint wherein she has joined her husband, Dr. Kevin Oyoyo as a party plaintiff.

In considering a motion to dismiss pursuant to Rule 12(b), the court is required to assume the truth of all allegations of fact set out in the complaint. Defendant's attack on the original complaint is wholly conclusary. Moreover, the claims alleged by Patience Oyoyo in both her original complaint and in the amended complaint as they relate to her cause of action against Defendant describe conduct which demonstrate that Defendant discriminated against her on the basis of her sex, race and national origin by alleging disparate treatment by Defendant while she was employed by Defendant as well as disparate treatment as compared to other employees in terminating her. Under such circumstances Defendant's motion to dismiss should be denied.

RECOMMENDATION:

For the foregoing reasons it is recommended that the District Court ~~enter its order~~

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denying Defendant's motion to dismiss Plaintiff Patience Oyoyo's amended complaint filed in this action.

A copy of this recommendation shall be transmitted to counsel for the parties.


UNITED STATES MAGISTRATE JUDGE